

A corporation organized for the purpose of rehabilitating unemployed persons over a stated age, whose activities consist of educating the general public in the special qualifications of persons over such age, of combatting prejudice against employment of such persons, and of securing permanent or temporary employment for its members is not entitled to exemption from Federal income tax as an organization described in section 501(c) (3) of the Internal Revenue Code of 1954.

However, the corporation may properly be classified as a civic organization not organized for profit but operated exclusively for the promotion of social welfare and is exempt from Federal income tax as an organization described in section 501(c) (4) of the Internal Revenue Code of 1954.

Advice has been requested whether, under the circumstances set forth below, a nonprofit corporation is entitled to exemption from Federal income tax under section 501(a) of the Internal Revenue Code of 1954.

In the instant case the corporation was organized for the purpose of rehabilitating unemployed persons over a stated age. Its membership is limited to persons over such age who formerly held positions of administrative responsibility. Each member is expected to contribute a certain amount of money when he has been accepted for membership. The organization's activities consist of educating the public generally and employers especially in the training and mature experience of persons over the stated age, of combatting prejudice against employment of persons over such age, and of securing permanent or temporary employment for its members. In furtherance of such activities the organization analyzes the background of each individual member and determines the most likely fields of employment. Members are instructed in the preparation of resumes of personal backgrounds in selling themselves to prospective employers, employees are educated in the values inherent in experience of older men of executive background, and the public is educated in the economic waste where talents of older men are not employed. The organization circularizes employers for positions, sells the services of older men in preliminary interviews with employers, and arranges employment interviews. Its income is derived primarily from voluntary contributions of members and others and is used principally for the payment of operating expenses, refunds, and other miscellaneous items.

Section 501(c) (3) of the Code describes certain organizations which are exempt from taxation under section 501(a) of the Code. The exemption applies to any corporation, community chest, fund, or foundation, organized and operated exclusively for religious charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of

which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

In order to qualify for exemption under the above cited provision of law, an organization must be both organized and operated exclusively for one or more of the purposes specified therein. On the basis of the facts in the instant case, the organization's primary purposes and activities are to operate an employment service and provide employment and business opportunities for its members. These purposes and activities are not considered to be exclusively charitable or educational within the meaning of section 501(c)(3) of the Code.

In view of the foregoing, it is held that a corporation organized for the purpose of rehabilitating unemployed persons over a stated age, whose activities consist of educating the general public in the special qualifications of persons over such age, of combatting prejudice against employment of such persons, and of securing permanent or temporary employment for its members, is not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

It is apparent, however, that the purposes and activities of the corporation are of a class ordinarily associated with organizations not operated for profit but operated exclusively for the promotion of social welfare as described in section 501(c)(4) of the Code. Accordingly, it is further held that the corporation is entitled to exemption from Federal income tax under the provisions of section 501(a) of the Code as an organization described in section 501(c)(4) of the Code.